IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 148 OF 2007
AND
CIVIL APPLICATION NO. 63 OF 2007

1. Angela Ninette Josephine de Oliveira Fernandes,
   major, retired, widow of late Jose
   Cirilo de Oliveira Fernandes,
   resident of H. No. 133/2, Bhutem Bhat,
   Merces-Ilhas-Goa.

2. Ruben Jose Luis de Oliveira Fernandes,
   major, businessman and his wife,
   resident of Flat No. S-3/4, Second Floor,
   Solanki Vatika, Opp. Green Hill Apts.,
   Alto-Betim-Bardez-Goa.

3. Servulo Renato Luis de Oliveira Fernandes,
   major, businessman, son of late
   Jose Cirilo de Oliveira Fernandes

4. Celia de Oliveira Fernandes,
   major, service,
   both residents of H. No. 133/2, Bhutem Bhat,
   Merces-Ilhas-Goa. .... Petitioners

Versus

1. Ceaser Augusto Rego Fernandes,
   major retired, son of late Augusto
   Francisco de Oliveira Fernandes,

2. Maria Vitoria Fernandes e Linhares,
   major, widow of late

3. Susan Fernandes e Linhares,
   major, advocate,
   All residents of H. No. 133/1, Bhutem Bhat,
   Merces-Ilhas Goa. .... Respondents

Shri Edwin Furtado, Advocate for the Petitioners.

Shri V.P. Thali, Advocate for the Respondents.

CORAM : S.A. BOBDE, J.

DATE : 23rd MARCH, 2007

ORAL JUDGMENT

Heard. Rule returnable forthwith by consent.

2. On 14th September, 2006 in Writ Petition No. 234 of 2006, this Court directed Civil Suit No. 99 of 2006, filed by the respondents to be heard alongwith the suit proposed to be filed by the Petitioners. Thereafter, the Petitioners have filed Regular Civil Suit No. 86 of 2006. It appears, however, having regard to the fact that the existing suit, would be in respect of the same proceedings, this Court directed that both the suits should be heard together. However, apparently, the Petitioners' suit is not being heard alongwith the Respondents' suit. According to the Learned Counsel for the Respondent, this is because the Petitioner is creating obstacles. According to the petitioner, this was due to the fact that the Commissioner did not notify the place of recording evidence. The reasons for not proceeding simultaneously with both suits appear to be frivolous. In any case, in view of the fact that the Petitioners' have filed the suit and the suits of the Respondents' and the Petitioners' have been directed to be heard together, I direct that both the suits shall proceed simultaneously from the same stage.

3. The Learned Counsel for the Respondents states that the Petitioners'

suit is not ripe for evidence. The Learned Counsel for the Petitioners states this is not time and that his suit is also fixed for evidence by the Learned Civil Judge.

4. Whatever be the stage of the two suits, I consider it appropriate, in the interest of justice, to direct that the Petitioners' suit and the Respondents' suit be brought to the same stage i.e. for evidence, if not already so. Thereupon the suits be heard and disposed of together. Needless to say, the trial Court will be entitled to record common evidence, if the parties apply and if the Court considers it appropriate. Rule disposed of.

S.A. BOBDE, J.

NH/-